



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,217	08/19/2003	John Graeme Houston	081421.000002	7117
35979 7590 10/09/2007 BRACEWELL & GIULIANI LLP P.O. BOX 61389 HOUSTON, TX 77208-1389			EXAMINER AUGHENBAUGH, WALTER	
			ART UNIT 1794	PAPER NUMBER
			NOTIFICATION DATE 10/09/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@bglip.com

Office Action Summary

Application No.

10/650,217

Applicant(s)

HOUSTON ET AL.

Examiner

Walter B. Aughenbaugh

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-37, 47-52 and 54 is/are pending in the application.
- 4a) Of the above claim(s) 50-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-37, 47-49 and 54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 6, 2007 has been entered.

Acknowledgement of Applicant's Amendments

2. The amendments made in claims 33 and 47 in the Amendment filed August 6, 2007 (Amdt. B) have been received and considered by Examiner.
3. The markings in claim 49 in Amdt. B are identical to the markings in claim 49 in the Amendment filed January 12, 2007, so claim 49 in Amdt. B should not be marked up. Claim 49 is correctly identified as "(Previously Presented)" in Amdt. B since the markings in claim 49 in Amdt. B are identical to the markings in claim 49 in the Amendment filed January 12, 2007.
4. Applicant's cancellation of claim 53 in Amdt. B has been acknowledged by Examiner.

REPEATED REJECTIONS

Claim Rejections - 35 USC § 102

5. The 35 U.S.C. 102 rejection of claims 33-37 and 47-49 that was repeated in paragraph 5 of the previous Office Action mailed April 5, 2007 has been repeated for the reasons previously made of record, and for the following reason that addresses the amendments made in claims 33 and 47 in Amdt. B: in regard to claim 33, the helix angle of the internal helical formation (coiled sidewall reinforcement member, item 310, Fig. 17, col. 19, lines 34-36) falls within the claimed

Art Unit: 1772

range of between about 5 degrees and about 16 degrees (Fig. 17). In regard to claim 47, the helix angle of the spiral flow inducer vane (thread, item 303) falls within the claimed range of between about 5 degrees and about 16 degrees (Fig. 16).

Claim Rejections - 35 USC § 103

6. The 35 U.S.C. 103 rejection of claim 54 made of record in paragraph 9 of the previous Office Action mailed April 5, 2007 has been repeated for the reasons previously made of record

NEW REJECTION

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

8. Claim 54 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to which helix angle the recitation "the helix angle" in claim 54 refers: the helix angle recited in claim 37, or the helix angle recited in claim 33?

Response to Arguments

9. Applicant's arguments presented on pages 5-7 of Amdt. B regarding the 35 U.S.C. 102 rejection have been fully considered but are not persuasive.

Applicant argues that col. 5, lines 40-46 of Frassica "appears to suggest that all stents comprise mesh": Examiner has not interpreted col. 5, lines 40-46 to "suggest that all stents comprise mesh", but rather that the stents taught in the Frassica patent are mesh stents. Examiner interprets col. 5, lines 40-46 as limiting the stents taught in the Frassica patent to mesh stents. Regarding Fig. 16 and 17, Frassica may have elected to not show all the details of the stent in

Art Unit: 1772

Fig. 16 and 17: col. 5, lines 40-46 limits the stents taught in the Frassica patent to mesh stents. The teaching at col. 19, line 20 that the stent is "made from polyurethane material" does not preclude a metallic stent from being a component of the stent: the stent could be metallic and also "made from polyurethane material" if the stent comprises both a metal and a polyurethane material.

In regard to the helix angle of item 310 shown in Fig. 16 and 17, the helix angle, when measured as the angle between the vertical direction and a turn of item 310 (Fig. 17), is acute, and falls within the claimed range of between about 5 degrees and about 16 degrees (Fig. 17).

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is (571) 272-1488. While the examiner sets his work schedule under the Increased Flexitime Policy, he can normally be reached on Monday-Friday from 8:45am to 5:15pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye, can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1772

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Walter B. Aughenbaugh

9/28/07

Walter B. Aughenbaugh
9/28/07